

FILED

JUN 14 2007

**BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA**

**NEBRASKA DEPARTMENT
OF INSURANCE**

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

vs.

MICHAEL H. TVRDY,

RESPONDENT.

CAUSE NO.: A-1716

CONSENT ORDER

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Christine M. Neighbors, and Michael H. TvrDY ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to *Neb.Rev.Stat.* §44-101.01 and §44-4047, *et seq.*
2. Respondent is licensed as a resident insurance producer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Michael H. TvrDY on May 10, 2007. A copy of the petition was served upon the Respondent by mailing to Respondent's counsel, Christopher S. Bartling, at Bartling & Hinkle, P.C., 5801 South 58th Street, Suite B, Lincoln, Nebraska 68516 by certified mail, return receipt requested.

2. Petitioner alleges Respondent engaged in conduct violating *Neb. Rev. Stat.* §44-4059(1)(b), (f) and (h), *Neb. Rev. Stat.* §44-4065(2), and the Unfair Trade Practices Act, *Neb. Rev. Stat.* §44-1525(1)(a) and (f), as a result of the following conduct:

- a. On or about October 3, 2006, The State of Nebraska filed an Information in the District Court of Lancaster County, Nebraska, Case ID CR06 0000889, and charged Respondent with Driving Under Influence, 3rd offense more than .15, a Class 3A Felony. Respondent's arraignment was scheduled for October 11, 2006.
- b. On or about October 11, 2006, Respondent waived service of copy of the Information and was arraigned. Respondent did not report the arraignment to the Department within thirty days from the date of arraignment or waiver as required by *Neb. Rev. Stat.* §44-4065(2).
- c. On or about January 24, 2007, Respondent entered a guilty plea and was found guilty of Driving Under Influence, 3rd offense more than .15, a Class 3A Felony. Respondent was convicted of a felony.
- d. On or about March 22, 2007, Respondent was sentenced to the Nebraska Department of Correctional Services from 1 to 3 years, driver's license revoked for fifteen years, and vehicle immobilized and license plates revoked for eight months.
- e. On or about October 25, 2006, Respondent solicited the sale of an annuity to a Nebraska resident, L. Molacek. During the course of the solicitation, the brochures Respondent provided to L. Molacek were not the correct brochures for the annuity application completed.
- f. Respondent provided L. Molacek with a brochure that showed a significantly reduced surrender charge percentage in comparison to that actually charged under the annuity policy for which L. Molacek applied.

3. Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the allegations contained in the Petition and restated in Paragraphs 2 above.

CONCLUSIONS OF LAW


Respondent's conduct as alleged above constitutes violations of *Neb. Rev. Stat. §44-4059(1)(b), (f) and (h)*, and the Unfair Trade Practices Act, *Neb. Rev. Stat. §44-1525(1)(a)* and (f).

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Michael H. Tvrdy, that Respondent's insurance producer license shall be suspended for the period of one year effective on the date that the Director of Insurance signs this Consent Order.

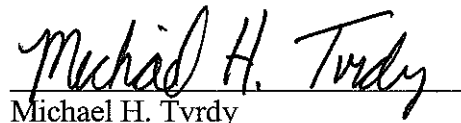
The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his or her signature below.




Attorney for Petitioner
6/12/07

Date



Michael H. Tvrdy
6/7/07

Date

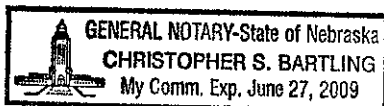


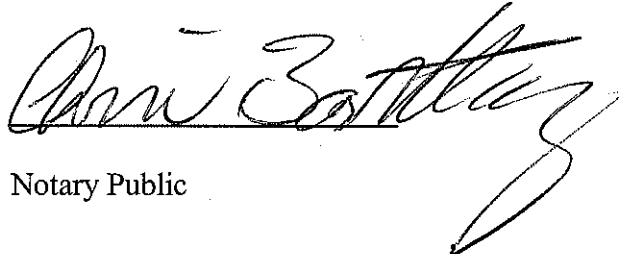
Attorney for Respondent
6/11/07

Date

State of Nebraska)
) ss.
County of Lancaster)

On this 7 day of June, 2007, Michael H. Tvrdy personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.




Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Michael H. Tvrdy, Cause No.: A-1716.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

6/14/07
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was served upon Respondent by mailing a copy to his counsel, Christopher S. Bartling, Bartling & Hinkle, P.C., 5801 South 58th Street, Suite B, Lincoln, NE 68516 by certified mail, return receipt requested, on this 14th day of June, 2007.

